

§ 17.336

to a recipient when a hearing under § 17.335(a)(1) is initiated.

(1) New Federal financial assistance from DOI includes all assistance for which DOI requires an application or approval, including renewal or continuation of existing activities or authorization of new activities, during the deferral period. New Federal financial assistance from DOI does not include increases in funding as a result of changed computation of formula awards or assistance approved prior to the beginning of a hearing under § 17.335(a)(1).

(2) DOI will not begin a deferral until the recipient has received a notice of an opportunity for a hearing under § 17.335(a)(1). DOI will not continue a deferral for more than 60 days unless a hearing has begun within that time or the time for beginning the hearing has been extended by mutual consent of the recipient and the Secretary. DOI will not continue a deferral for more than 30 days after the close of the hearing, unless the hearing results in a finding against the recipient.

§ 17.336 Hearings, decisions, post-termination proceedings.

Certain DOI procedural provisions applicable to title VI of the Civil Rights Act of 1964 apply to DOI's enforcement of these regulations. The procedural provisions of DOI's Title VI regulations can be found at 43 CFR 17.8 through 17.10 and 43 CFR part 4, subpart I.

§ 17.337 Remedial action by recipients.

Where DOI finds a recipient has discriminated on the basis of age, the recipient shall take any remedial action that DOI may require to overcome the effects of the discrimination. If another recipient exercises control over the recipient that has discriminated, DOI may require both recipients to take remedial action.

§ 17.338 Alternate funds disbursal procedure.

(a) When DOI withholds funds from a recipient under these regulations, where permissible the Secretary may disburse the withheld funds directly to an alternate recipient under the appli-

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cable regulations of the bureau or office providing the assistance.

(b) The Secretary will require any alternative recipient to demonstrate:

(1) The ability to comply with these regulations; and

(2) The ability to achieve the goals of the Federal statute authorizing the Federal financial assistance.

§ 17.339 Exhaustion of administrative remedies.

(a) A complainant may file a civil action following the exhaustion of administrative remedies under the Act. Administrative remedies are exhausted if:

(1) 180 days have elapsed since the complainant filed the complaint and DOI has made no finding with regard to the complaint; or

(2) DOI issues any finding in favor of the recipient.

(b) If DOI fails to make a finding within 180 days or issues a finding in favor of the recipient, DOI will:

(1) Promptly advise the complainant of this fact;

(2) Advise the complainant of his or her right to bring a civil action for injunctive relief; and

(3) Inform the complainant:

(i) That he or she may bring a civil action only in a United States district court for the district in which the recipient is found or transacts business;

(ii) That a complainant prevailing in a civil action has the right to be awarded the costs of the action, including reasonable attorney's fees, but that the complainant must demand these costs in the complaint;

(iii) That before commencing the action the complainant shall give 30 days notice by registered mail to the Secretary of HHS, the Attorney General of the United States, the Secretary of the Interior, and the recipient;

(iv) That the notice must state: the alleged violation of the Act; the relief requested; the court in which the complainant is bringing the action; and whether or not attorney's fees are demanded in the event the complainant prevails; and

(v) That the complainant may not bring an action if the same alleged violation of the Act by the same recipient is the subject of a pending action in any court of the United States.